
OLR Bill Analysis

sSB 299 (File 155, as amended by Senate “A” and “B”)*

AN ACT CONCERNING THE ENFORCEMENT OF SURETY CONTRACTS BY NURSING HOMES.

SUMMARY:

In most circumstances, the law prohibits nursing, convalescent, chronic disease, and rest homes (“nursing homes”) from enforcing contracts under which another person (a guarantor) promises to pay a nursing home applicant’s or resident’s bill. It carves out two exceptions. The exceptions apply if the applicant (1) transferred property for less than it was worth to the guarantor or a close family member (presumably during the five-year lookback period when such transfers result in a lapse in Medicaid eligibility) or (2) fails to apply for Medicaid.

This bill extends this prohibition, without the exceptions, to admission agreements entered into by a nursing home and a responsible party who has access to the applicant’s or resident’s assets or financial information, but these agreements appear to be unenforceable.

Beginning October 1, 2011, it expands the notice requirements in contracts and extends these substantive requirements to the agreements. It specifies how the notice must appear, including primary language, type size, and font.

The bill allows nursing home staff, with written permission of the resident or his or her representative, to fill out a Medicaid application on the resident’s behalf.

EFFECTIVE DATE: October 1, 2011

*Senate Amendment “A” deletes the provision in the original file that authorized nursing home staff to fill out Medicaid applications on

residents' behalf.

*Senate Amendment "B" adds notice requirements to contracts executed on and after October 1, 2011. It also increases the type size of required notices. Its provisions override Senate "A."

CONTRACTUAL NOTICE

Existing law requires enforceable third-party nursing home contracts to have a clause stating that they are enforceable against the guarantor or his or her spouse, children, or grandchildren who received assets or property for less than fair market value or against the same parties when the nursing home resident fails to complete a Medicaid application.

Under the bill, nursing home contracts and admission agreements must have notice provisions containing the information described above, and the following:

1. state and federal law prohibit nursing homes from requiring a third party to personally guarantee payment as a condition of admission or continued stay, and
2. because of the complexity involved in filling out a Medicaid application, it may be advisable for the person completing the application to seek professional assistance or legal advice.

CONTRACT FORMALITIES

The notice must be printed in at least 14-point bold type, stated in plain and simple language, and, whenever possible and in accordance with any applicable federal guidelines, in the recipient's primary language.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/10/2011)

Judiciary Committee

Joint Favorable

Yea 36 Nay 0 (04/26/2011)